

## 1 UNITED STATES DISTRICT COURT

## 2 WESTERN DISTRICT OF WASHINGTON AT SEATTLE

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4 ABDIQAFAR WAGAFE, et al., on ) C17-00094-RAJ  
5 behalf of themselves and )  
6 others similarly situated, ) SEATTLE, WASHINGTON  
7 )  
8 Plaintiffs, ) October 24, 2019 -  
9 v. ) 10:00 a.m.  
10 )  
11 DONALD TRUMP, President of the ) Telephone Conference  
12 United States, et al., )  
13 )  
14 Defendants. )  
15 )

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11 VERBATIM REPORT OF PROCEEDINGS  
12 BEFORE THE HONORABLE RICHARD A. JONES  
13 UNITED STATES DISTRICT JUDGE

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## 14 APPEARANCES:

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Proceedings stenographically reported and transcript produced with computer-aided technology

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1                   THE COURT: Good morning. This is Judge Jones in the  
2 matter of Wagafe v. Trump, Cause No. C17-94-RAJ.

3                   Will the parties please identify themselves, beginning first  
4 with the plaintiffs?

5                   MR. PEREZ: Thank you, Your Honor. David Perez and  
6 Heath Hyatt, Perkins Coie, for the plaintiffs.

7                   THE COURT: Thank you.

8                   Will you be the only --

9                   MR. KIPNIS: Good morning, Your Honor -- sorry.

10                  THE COURT: And, counsel, who will be the speaking agent  
11 for plaintiffs?

12                  MR. PEREZ: Both David Perez, myself, and Heath Hyatt,  
13 depending on the subjects the Court decides to cover.

14                  THE COURT: All right. Thank you.

15                  Counsel for the defendants?

16                  MR. KIPNIS: Good morning, Your Honor. Brian Kipnis,  
17 Assistant United States Attorney, for defendants.

18                  THE COURT: Are you the only one for the defense?

19                  MR. KIPNIS: No, Your Honor.

20                  THE COURT: All right.

21                  MR. BUSEN: This is Jesse Busen, from the Department of  
22 Justice, speaking for the defendants.

23                  MS. MURPHY: Lindsay Murphy for the Department of  
24 Justice as well.

25                  MR. KANTER: Ethan Kanter, DOJ as well. Thanks.

1                   THE COURT: And who will be the speaking agents on  
2 behalf of the defendants?

3                   MR. KIPNIS: Your Honor, Brian Kipnis will be taking the  
4 lead on the extension issue. On the issues concerning the motion  
5 to compel, Jesse Busen will be taking the lead.

6                   THE COURT: All right. Well, counsel, let's get  
7 started. First of all, the Court is gravely disappointed by the  
8 fact that the parties have come to the Court with an additional  
9 continuation. This would be the fifth continuance overall and  
10 the third continuance that you have requested since the Court  
11 granted the plaintiffs' motion to compel. And, again, this  
12 appears to the Court kicking the can, in resolving some of these  
13 issues on discovery, further down the road.

14                  Now, I need to put in context the situation this district is  
15 in at this point in time. Now, plaintiffs' counsel, because they  
16 reside in Seattle, and Mr. Kipnis is aware of the circumstances  
17 for the judges on this bench. We have 12 judges, 11 of which  
18 are -- 10, actually, which are generally available. Ten of our  
19 judges are in senior status, which means we only have two active  
20 judges, myself and our chief judge. This puts us in a situation  
21 where we are all double and sometimes triple set. We have  
22 another judge who's going to fully retire after May, which means  
23 we have to redistribute his entire caseload. So the pressure and  
24 demands upon court time is enormous and it's precious, and this  
25 Court has low tolerance for continuing cases again and again and

1 again without resolution. The Court wants to see progression  
2 made on this case. I don't understand why some of the  
3 continuances and some of the delays have been taken. The Court  
4 has issued orders in the past. The last motion that you filed,  
5 before the pending request for a continuance, is this four  
6 additional A-files which was filed. And I'm just not seeing the  
7 movement and progress on this case.

8 So let's begin with plaintiffs' counsel. Maybe you can help  
9 illuminate for the Court why this is taking so long, what the  
10 delays are, what the obstacles are, and what roadblocks need to  
11 be, essentially, eliminated so that you can move forward on this  
12 case.

13 MR. PEREZ: Thank you, Your Honor. This David Perez of  
14 Perkins Coie.

15 We take this case very seriously and the Court's calendar and  
16 resources here. We've communicated that to the defendants on  
17 several occasions. Each and every request to extend the case  
18 schedule has been at the request of the government, and, in  
19 fairness, we do believe each of their requests have been made in  
20 good faith. We want to be accommodating in large part because of  
21 what the Your Honor has highlighted, which is the Court's  
22 resource issues, and we don't want to get into a fight over the  
23 schedule, but these extension requests have been presented to us  
24 as a fate accompli: We will not meet this deadline, Plaintiffs.  
25 We need this case schedule adjusted. So if you don't agree by

1 tomorrow, or by the day after tomorrow, we'll file a motion. And  
2 it's almost always in that setting, that setup, which is the  
3 deadline is upon us, we won't meet it, agree, or we will move.  
4 And we don't want to bring a fight in front of you, and so we  
5 have reluctantly accommodated these. But in our message in this  
6 last extension, we made clear -- first, we asked for certain  
7 concessions, and the government refused to give us a single  
8 concession, and then we said, fine, this will be the last  
9 extension we agree to. And we made that very clear.

10 At this point we don't see any alternative but to grant this,  
11 to push it pursuant to this last stipulation in large part  
12 because the government, despite the cutoff and despite the  
13 Court-imposed deadlines, has not given us all the documents we  
14 have requested, has not given us the redacted A-files. And even  
15 if you were to turn back the clock just a little bit, from your  
16 order in July where you ordered our client A-files to be  
17 produced, I believe it was within two weeks of that order, it  
18 took them, what, six or seven weeks to produce it, and we still  
19 haven't gotten the other four. And they said it would be  
20 sometime in October, and we don't know when that "sometime" will  
21 be, but we're at the end of October.

22 The problem is, without these documents, it's difficult to  
23 impossible for us to depose their witnesses, identify the  
24 witnesses, prepare -- identify, much less prepare, an expert, and  
25 then prepare an expert report.

1       We're hoping, based on representations made to us, that the  
2 documents will be given to us, you know, early next month, mid  
3 next month, which means we should be able to schedule some  
4 depositions, get an expert report, and have no further extensions  
5 whatsoever. That's our position.

6           There are a couple lingering issues we did want to flag for  
7 the Court that are nonscheduled related, but we can circle back  
8 to that if the Court has time at the end of the hearing.

9           THE COURT: All right. Thank you, counsel.

10          I will hear from counsel for the defendants.

11           MR. KIPNIS: Thank you, Your Honor.

12          Since this is a status conference, I don't want to engage in  
13 an exercise of finger-pointing, despite the fact that the finger  
14 was just pointed at us.

15          The fact of the matter in this case, Your Honor, is this is a  
16 very one-sided discovery situation in which everything is being  
17 asked of from the government, and plaintiffs are not only not  
18 asked to give anything, but when they are asked, they haven't  
19 given us anything.

20          But I don't want to go down that road, Your Honor. I'm going  
21 to tell you exactly what we have been doing, which is  
22 considerable, monumental in my mind, in terms of what's been  
23 asked of us and what we have done. And I will tell you, Your  
24 Honor, also why this additional two-month extension is necessary.  
25 But I will say, before I go into detail, these extension

1 requests, the dialogue between plaintiffs and defendants is far  
2 different than what Mr. Perez portrayed. They have been, on the  
3 large, cooperative discussions, working through problems with  
4 counsel. Plaintiffs have needed these extensions as much as we  
5 have, and they have cooperated in asking the Court for these  
6 extensions. And, frankly, if there was a complaint about the  
7 reasonableness of our requests, the necessity for our requests,  
8 the obligation to bring that up was in some kind of motion or  
9 resistance to these stipulations that they all joined in  
10 voluntarily and enjoy the benefit of as much as we do.

11 Your Honor, we have in this case collected over 700,000  
12 documents. We have conducted linear review of 300,000 documents.  
13 We have produced to date to plaintiffs on the order of 40,000  
14 documents, including privilege declarations and privilege logs.  
15 This has been a considerable effort that we have thrown resources  
16 at in no case like I have ever experienced. At one time we had  
17 100 government attorneys reviewing documents on this case. We  
18 pulled in people from different agencies from all through the  
19 Department of Justice. It has been a remarkable cooperative  
20 effort to get this done.

21 The reason this has been necessary is not because of some  
22 failing on our part. The reason is because plaintiffs have  
23 asked us for a ton of documents in a case involving one of the  
24 most sensitive government programs, and that has presented a  
25 document-production problem that is, in my experience,

1 unparalleled. Now, there may be other cases in which these kind  
2 of document problems arise, but this is the first in my  
3 experience like this. And, frankly, I have been quite proud of  
4 the effort that this team has put in to getting us where we are.  
5 And we are, Your Honor -- you should know -- we are almost at the  
6 finish line. The finish line is in sight. We are 99 percent  
7 there in the effort that we have put in here.

8 But what has occurred that has caused this last extension  
9 request is it stems from the Court's last order of July 9th. The  
10 Court suggested to us -- and we took that suggestion very  
11 seriously -- that we consider producing to plaintiffs an  
12 additional one to five A-files. And we have been telling  
13 plaintiffs all along -- We have put in declarations to the Court  
14 to show what an arduous process it is to produce those A-files.  
15 And plaintiffs' request was an additional 100 A-files originally.  
16 The Court denied that but suggested that we produce an additional  
17 one to five. And we took that suggestion very seriously, Your  
18 Honor, and we agreed with plaintiffs that we would give them four  
19 additional A-files.

20 We have been clear with plaintiffs, and I think we have been  
21 very clear with the Court, that that's a process that is highly  
22 complex because of the third-party agency equities that are  
23 involved in those files. And as Your Honor knows from his  
24 experience, I think, when you have different government agencies  
25 trying to work through problems like these, it creates

1 complications. And the Justice Department stands to work through  
2 those complications, and we have been doing that, but it takes  
3 time and it takes effort, it takes line-by-line review of these  
4 cases, and then dialogue between the agencies to get everybody on  
5 the same page and to get these files produced.

6 And so what we have asked here for, Your Honor, essentially,  
7 is another two months to get that done. And we are on track to  
8 do that. We expect to produce an A-file to plaintiffs next week.  
9 And we are very hopeful that we can get the rest of these  
10 documents produced in time. But because of the involvement of  
11 third-party agencies in these very sensitive issues, it  
12 introduces an element of unpredictability that makes it very  
13 difficult for us to come out with concrete deadlines and dates  
14 that we can meet. And we are working very hard to get our  
15 agencies to meet those. They're working hard, we're working  
16 hard, but it's not an easy process, Your Honor. But we take  
17 these deadlines as seriously as anybody.

18 This decision to ask for this extension with plaintiffs was  
19 not an easy one, it was not made lightly, and it is certainly not  
20 made frivolously or because we aren't working hard and our  
21 clients aren't working hard. We're working very hard to get this  
22 done, and we are almost there.

23 So, Your Honor, I think this request is very well justified  
24 under the circumstances. And, Your Honor, I'm very mindful of  
25 the stress that's put on this Court, and I regret that and I

1 regret the situation that we're in, and I wish there was  
2 something I could do about it, but there's not. But we are  
3 mindful of the Court's problems, and we are taking them  
4 seriously.

5 We have been working very hard to get this done, and I think  
6 we're there, Your Honor, I think we're almost there. We just  
7 need this additional time to pull us over the finish line, and  
8 that's all we're asking for here.

9 THE COURT: Now, if we're talking about a finish line,  
10 that means there are specific things that need to be done to get  
11 to the finish line. Can you itemize --

12 MR. KIPNIS: Correct.

13 THE COURT: -- or categorize for the Court exactly what  
14 you anticipate to be done between now and whatever this proposed  
15 date is in November?

16 MR. KIPNIS: I can, Your Honor.

17 So as I've indicated, we have four A-files to produce to  
18 plaintiffs. The other A-files, by the way, are done. So we have  
19 these four left. We have one that we're giving to plaintiff --  
20 producing to plaintiffs next week, and then we have the other  
21 three to get done. We have approximately 500 pages -- or, sorry,  
22 500 other documents that have various issues that we are working  
23 through. These are issues that have some serious issues  
24 concerning national security hits, and we are working through  
25 with the agencies to get those reviewed and get those off to

1 plaintiff. And our expectation is that we will have those  
2 reviewed, redacted, the privilege logs done, and any necessary  
3 supporting declarations done by the date that we have requested.

4 Do you want more detail about those documents, Your Honor?

5 THE COURT: Well, not at this time.

6 One concern I have, counsel, from what I have seen, in terms  
7 of some of the redactions, it's wholesale redactions, and the  
8 Court's belief or perception of what redaction is supposed to be  
9 is that it's supposed to be pinpoint redactions as opposed to  
10 pages or large sections and gaps.

11 Has that been taken into consideration in your submissions to  
12 the Court and to opposing counsel?

13 MR. KIPNIS: Yes, Your Honor. And I think to the extent  
14 that that's an issue regarding the motion to compel that the  
15 Court is considering today, I think we can speak to that more  
16 specifically through Jesse Busen. And I think we can also, if  
17 the Court is concerned that we are taking wholesale redactions on  
18 an unjustified basis, we stand ready to provide unredacted copies  
19 of those documents to the Court ex parte, in camera, if it would  
20 like to ensure itself that we are taking those redactions  
21 providently.

22 THE COURT: And that's for the, what is it, 30 files  
23 now, or 25?

24 MR. KIPNIS: I think it's --

25 THE COURT: Twenty-five.

1 MR. KIPNIS: I think it's 25.

2 THE COURT: Now, the 25 --

3 MR. KIPNIS: Yes.

4 THE COURT: -- is that 25 plus the additional four that  
5 you've agreed, or is that complete, when we talk about the number  
6 25?

7 MR. KIPNIS: Let me defer to Mr. Busen on that.

8 Can you answer the Court's question, please, just to make  
9 sure we're giving them an accurate answer?

10 MR. BUSEN: With respect to -- excuse me. This is Jesse  
11 Busen.

12 Your Honor, with respect to the motion to compel, that  
13 specifically has to do with 25 documents that the government  
14 previously produced.

15 THE COURT: 25 documents, or 25 files?

16 MR. BUSEN: Twenty-five -- yes, 25 files.

17 THE COURT: Okay.

18 MR. BUSEN: Which comprise a few hundred pages of  
19 information. We had previously produced those documents.  
20 Plaintiffs came to us asking us to provide fewer redactions on 38  
21 documents. We eventually negotiated it down to 25. There were  
22 fewer redactions on some of those. Others we had to draw a line  
23 and say, you know, we have to assert the privilege on these  
24 documents. So what is in the motion to compel that's currently  
25 pending are challenges to privilege assertions with respect to a

1 specific set of 25 documents.

2 THE COURT: All right.

3 And, Mr. Kipnis, you were going through your checklist of  
4 what remains to be done to get to this magic finish line. What  
5 else is on your checklist?

6 MR. KIPNIS: Yes. It's the -- after next week, it will  
7 be the three A-files and approximately 500 other documents that  
8 have various issues with classified information that we are  
9 trying to work through, in at least -- certainly in one case, or  
10 one group of classified documents.

11 I can itemize those for you if you would like, Your Honor,  
12 what those are.

13 THE COURT: Why don't we go ahead and do that, counsel,  
14 just so that we have -- By the way, this is a matter of record.  
15 I have a court reporter here. I did the courtesy of not  
16 requiring counsel to travel from back East and make it easier for  
17 all parties, but I do have this on record. So if there's any  
18 question or need for a transcript, that's always available for  
19 the parties. So I wanted to make that disclosure on the record.

20 So please continue, counsel.

21 MR. KIPNIS: Okay. Thank you, Your Honor.

22 Of the 500 documents, there are approximately 300 CARRP, what  
23 are called CARRP case-tracking spreadsheets, some of which are  
24 several hundred to a thousand pages in length. There's about a  
25 dozen of those of that length. There are PowerPoints involved.

1 They appear to use real-life examples, including names, dates of  
2 birth, and the third-party agencies involved. These are  
3 individuals who have been subject to national security  
4 investigations. So those are being reviewed by third-party  
5 agencies with equities, and that's why those are being delayed.

6 We have, as a second category, approximately 35 -- sorry, 30  
7 classified documents related to the named plaintiffs that were  
8 logged in the protologues provided to plaintiffs last spring. So  
9 plaintiffs have asked for further information about these  
10 approximately 30 documents which relate just to the named  
11 plaintiffs, and those are under review by USCIS and DOJ. We  
12 expect to be able to produce those by November 29th. That is the  
13 date that I'm being given for that.

14 We have approximately 150 documents related to the named  
15 plaintiffs which were collected from FDNS, an agency within  
16 USCIS, that are under review for classified information. We  
17 believe that many of these documents are duplicates of documents  
18 in the named plaintiffs' A-files, but some are not. So those are  
19 under review by USCIS and DOJ, and we expect those to be produced  
20 by November 29th.

21 THE COURT: In your production -- counsel, excuse me --  
22 in your production, are you cross-referencing or cross-indexing  
23 so that there's not duplication?

24 MR. KIPNIS: Can you repeat the question, Your Honor?  
25 I'm sorry.

1                   THE COURT: I'm just trying to make sure that if you are  
2 producing -- Because you've used the words "they may have  
3 already been produced," I'm just trying to minimize the volume by  
4 asking you, are your folks indexing the documents so that you  
5 know that they have already been produced so that there's not --

6                   MR. KIPNIS: Yes.

7                   THE COURT: -- a double set of documents coming to the  
8 Court or to the parties?

9                   MR. KIPNIS: Yes. That's one of the things we're trying  
10 to verify.

11                  THE COURT: Okay.

12                  All right. Please continue.

13                  MR. KIPNIS: That's my list, essentially.

14                  THE COURT: All right. Well, I don't know if your other  
15 counsel have anything else on their list to get to this deadline.

16                  MR. KIPNIS: Let me ask if anybody -- Lindsay, do you  
17 want to join in? Is there anything you wanted to add to what I  
18 just said?

19                  MS. MURPHY: Yes, Brian. Thanks.

20                  Your Honor, this is Lindsay Murphy for DOJ. I just wanted to  
21 make one correction to what Brian had provided. His list is  
22 accurate except for with regard to about 300 CARRP case-tracking  
23 spreadsheets. Brian noted that there were only about a dozen or  
24 so that are several hundred to a thousand pages in length.  
25 There's actually about 200 or so that are several hundred to a

1 thousand pages in length, and there are about one dozen CARRP  
2 training PowerPoints. So there's a significant volume of  
3 documents in a spreadsheet that we have been going through.

4 THE COURT: Okay.

5 MS. MURPHY: That's all I have to add.

6 THE COURT: Anything other counsel for the defense have  
7 any other information to supplement?

8 MR. BUSEN: No, Your Honor.

9 MR. KANTER: No, Your Honor.

10 THE COURT: All right. Now, as far as the third-party  
11 agency review, are they aware and have you made them aware of the  
12 deadlines and the urgency that this Court is imposing on the  
13 parties to get this discovery completed?

14 MR. KIPNIS: Yes, Your Honor. I would say that that is  
15 very true. We're having ongoing meetings with the agencies, and  
16 we are emphasizing constantly the importance of meeting the  
17 Court's deadlines and getting this job done, and that is  
18 something we are working very hard with them on. It's the  
19 difficulty of the task and the amount of time that it takes to  
20 conduct these line-by-line reviews and get these issues as they  
21 arise coordinated that's taking the time. It's not the lack of  
22 seriousness of any of our -- either our client agencies or the  
23 third-party agencies that are involved in this effort.

24 THE COURT: All right. Any further representation to be  
25 made by the defense?

1 MR. KIPNIS: No, Your Honor.

2 THE COURT: All right. Counsel for the plaintiffs, any  
3 response?

4 MR. PEREZ: Just a few things.

5 First, I don't think any of us on our end have thought or  
6 have accused the government of bad faith in the discovery. I  
7 just wanted to point that out.

8 Second, it's our experience, and I imagine it's also the  
9 Court's experience at times, the documents that are produced last  
10 tend to be the most important and valuable, and so we're going to  
11 need time to review, I believe, the three categories: 500 files,  
12 the 30 files relating to our named plaintiffs, and the  
13 spreadsheets that they're referring to will be incredibly  
14 important for our experts. And so we are eagerly -- we hope to  
15 receive them by the end of this next month, pursuant to the  
16 government's representations, and then I believe the parties will  
17 be able to work together on internal deadlines in a manner that  
18 would not require the trial schedule to slip any further. Even  
19 if it is, we need to be flexible on deadlines before the trial  
20 schedule, before the trial. If we can get these documents in  
21 time, we should be able to stick to this last stipulation.

22 As for the redactions concerning this current motion to  
23 compel, we do have some thoughts on that motion, if the Court was  
24 planning on having some argument on that.

25 THE COURT: Well, I wasn't expecting it, counsel, and I

1 don't believe it's fully ripe, in terms of all the briefing to  
2 come in at this point. Correct?

3 MR. PEREZ: Understood.

4 THE COURT: Is that correct?

5 MR. PEREZ: We've just received the unredacted  
6 documents. We obviously have not seen those.

7 THE COURT: Right.

8 MR. PEREZ: If the Court wishes for further briefing,  
9 we're happy to do so.

10 THE COURT: All right. We are just checking that. I  
11 think that -- I don't believe there's any outstanding -- I don't  
12 need any additional briefing, other than what you've already  
13 provided. That's adequate. I believe that the briefs that the  
14 parties needed to file have been filed at this point in time.

15 The next question, counsel, is, how realistic are the balance  
16 of the dates that you've proposed if the Court grants this  
17 request? Assuming that the government can meet the deadline on  
18 November 29 for a final completion of full production, again,  
19 subject to the motion to compel, how realistic are the balance of  
20 these dates? Because some of these dates are pretty tight by way  
21 of turnaround. For example, expert witness disclosure reports  
22 are due January 31, 2020, and the deadline for depositions of the  
23 experts is February 14th.

24 It sounds like there's a tremendous amount of work. I'm not  
25 trying to force you to stretch this out anymore, but I just want

1 to make sure that the parties have taken a realistic approach to  
2 what you are going to need to do in light of the volume of  
3 discovery. Counsel has just made representations about the  
4 thousands and maybe the 200,000 and 300,000 documents that have  
5 been recovered or reviewed. And I just want to make sure that,  
6 again, you are not going to come to this Court, after some of  
7 these deadlines have been met with discovery, asking for  
8 postponements for what you need to do to get this case fully  
9 prepared for trial.

10 MR. PEREZ: For plaintiff, this is David Perez.

11 You know, if we get the documents by November 29, whatever  
12 trial date the Court sets, either today or sometime after today,  
13 our intention would be for that to be the stake in the ground and  
14 to not move that. And if the parties need to work together on  
15 some flexibility -- for instance, right now, you know, deadlines  
16 for depositions would be February 14th -- the parties can always  
17 just informally agree that you have got until February 28th, or  
18 something along those lines. But we should keep -- whatever  
19 trial date we set now should be set, and then our intention would  
20 be it's realistic, and to the extent we need to have flexibility  
21 on other dates, we could informally work that out as parties  
22 routinely do.

23 THE COURT: All right.

24 MR. KIPNIS: Your Honor, this is Brian Kipnis again.  
25 And I think in terms of what Mr. Perez just said, we would

1       absolutely agree that given -- particularly given what the Court  
2       has told us today, we will be committed to keeping that trial  
3       date and working within that framework to try and bring this case  
4       to its conclusion by that trial date. So we also would agree  
5       that we'll be honoring the trial date that we're requesting.

6                  THE COURT: Now, one of the things that came up in the  
7       communications by the parties, at least from the government's  
8       perspective, is to submit for the Court's in camera review an  
9       inspection. I think that's appropriate, counsel, so I'm going to  
10      require that you do do that, because I can't make a determination  
11      one way or the other without that type of review. This is what I  
12      have done in the past, and I don't see any reason to vary from  
13      that in this particular case as well.

14                 And so, counsel, when do you believe that that will be  
15      produced to the Court?

16                 MR. KIPNIS: I believe we can -- let me defer to  
17      Mr. Busen on that, but I think we can do that relatively quickly,  
18      Your Honor.

19                 Mr. Busen, can you address that?

20                 MR. BUSEN: In reference to the 25 documents that are at  
21      issue in this motion to compel, Lindsay, you know more about  
22      producing these than I do. But, yeah, I think we can turn that  
23      around fairly quickly.

24                 THE COURT: Now, what's "fairly quickly" mean?

25                 MS. MURPHY: This is Lindsay Murphy for DOJ.

1           Your Honor, I think we could try to aim to do that within the  
2 week.

3           THE COURT: All right. Then I'm going to require that  
4 that be produced to this Court, and I will give you until next  
5 Friday.

6           MS. MURPHY: Thank you, Your Honor.

7           THE COURT: That's November 1st.

8           MR. KIPNIS: We will do that, Your Honor.

9           THE COURT: Now, Mr. Perez, I believe you said if the  
10 Court had time that there's some lingering issues.

11          MR. PEREZ: The only two lingering issues was the motion  
12 to compel, which the Court just asked for the unredacted copies,  
13 so the Court will address that later, and the only other  
14 lingering issue was the sanctions motion that the Court granted  
15 in part and granted fees on.

16          The government and the plaintiffs agreed that we would hold  
17 off on requiring the government to pay the fees until the Court  
18 made a final decision on that amount, and that amount, I believe,  
19 was Docket 231, and we just hadn't gotten an order on that.  
20 Because we made an agreement with defendants that we'd await for  
21 any payment until the final amount, we had just wanted to flag  
22 that for the Court to see if we can put a bind on that.

23          THE COURT: Okay. I will take that under advisement.

24          All right. Anything further, counsel, since I have you all  
25 on the phone?

1 MR. KIPNIS: Nothing from defendants, Your Honor.

2 THE COURT: Plaintiffs?

3 MR. PEREZ: Nothing from plaintiffs, Your Honor.

4 THE COURT: All right, counsel.

5 Counsel, again, I don't want you to think the Court is just  
6 unnecessarily coming down on either one of the parties. It's  
7 just that we're in a bind here in this jurisdiction, and I'm  
8 trying to manage my calendar, manage my docket, and make the  
9 lawyers do the work that they need to do to get this case moving  
10 in an expeditious fashion, to the extent that we can.

11 So if there's nothing further, we will be in recess. Thank  
12 you.

13 MR. KIPNIS: Thank you, Your Honor.

14 MR. PEREZ: Thank you.

15 (Adjourned.)

16

17 C E R T I F I C A T E

18 I, Nickoline M. Drury, RMR, CRR, Court Reporter for the  
19 United States District Court in the Western District of  
20 Washington at Seattle, do certify that the foregoing is a correct  
21 transcript, to the best of my ability, from the record of  
22 proceedings in the above-entitled matter.

23

24 /s/ Nickoline Drury

25 Nickoline Drury